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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,112	10/10/2000	Bradley C. Love	HRL030	4429

7590 05/07/2003

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EXAMINER

HIRL, JOSEPH P

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/686,112

Applicant(s)

LOVE, BRADLEY C.

Examiner

Joseph P. Hirl

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,6,10,16,20 and 26-28 is/are rejected.
- 7) ☒ Claim(s) 2-5,7-9,11-15,17-19 and 21-25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-28 are pending in this case.

Claim Objection

2. Claims 1, 16 and 27 are objected to because of the following informalities:

Appropriate correction is required.

Claim 1 at line 14: "25" should be "c."

Claim 16 at line 3: "app" is unknown.

Claim 27 at line 1: "An" should be changed to "A."

3. Claims 7, 17, and 26 lack compliance with 35 U.S.C. 112, fourth paragraph in that these claims fail to additionally limit the subject matter of the related independent claim and are therefore objected to under 37 C.F.R. 1.75(c). By definition, the system state is always a vector.

4. Claims 2-5, 8, 9, 11-15, 18, 19 and 21-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim, any intervening claims and all of the requirements of this office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. At Claim 6, line 4 the term "mimic" is used which is a relative term and renders the indefinite.
6. Claims 6 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. At Claim 6, line 4 the term "sufficiently mimics" is used which is a relative term and renders the claims indefinite. Claim 16 has a similar reference.
7. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. At Claim 10, lines 10-13, the use of the preposition "on" is confusing it is really the classifier that is evaluating the test...perhaps the word "by" could be used as a replacement. Without such change, the claim is indefinite.
8. Claims 26, 27 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each claim uses the preposition "into" suggesting that something is being inserted as opposed to the intention of referencing

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that which is being done internally. Perhaps the word "in" could be used as a replacement. Without such change, the claim is indefinite.

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1, lines 3-5 indicate that the explicit system and the classifier operate iteratively to perform a combinatory search. Notwithstanding the specification statements of page 12, lines 17-19, the specification teaches in the Detailed Description at page 15, lines 10-11 that it is the explicit system alone that performs a combinatory search procedure, which, of course, is iterative. Further, the profit module does not unto itself operate iteratively as stated in Claim 1, line 12, since as stated on page 15 of the specification at lines 13-14, "The profit module 204 provides a value of information framework, which tempers the output of the classifier 200 with subjective values."

Claim Rejections - 35 USC § 101

11. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

12. Claims 10 and 20 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. The practical application test requires that a useful, concrete and tangible result be accomplished. Claims 10 and 20 represent abstract methodology and therefore are intangible. The consequence is that utility is lacking.

Conclusion

13. Claims 2-5, 7-9, 11-15, 17-19 and 21-25 are objected. Claims 1, 6, 10, 16, 20, and 26-28 are rejected.

Correspondence Information

14. Any inquiry concerning this information or related to the subject disclosure should be directed to the Examiner, Joseph P. Hirl, whose telephone number is (703) 305-1668. The Examiner can be reached on Monday – Thursday from 6:00 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, John Follansbee can be reached at (703) 305-8498.

Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks,

Washington, D. C. 20231;

or faxed to:

(703) 746-7239 (for formal communications intended for entry);

or faxed to:

(703) 746-7240 (for informal or draft communications with notation of
"Proposed" or "Draft").

Hand-delivered responses should be brought to:

Receptionist, Crystal Park II

2121 Crystal Drive,

Arlington, Virginia.

Joseph P. Hirl

April 29, 2003

Wilbert L. Starks, Jr.
Primary Examiner
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Wilbert L. Starks, Jr.